

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	DATE FILED: _____
v.	:	CRIMINAL NO. _____
ANDRE HENRY	:	VIOLATIONS:
LEON HENRY	:	18 U.S.C. § 371
RICHARD HOLLAND	:	(conspiracy to make false statements
GREGORY CLAY,	:	to a federal firearms licensee - 1 count)
a/k/a "George Clay"	:	18 U.S.C. § 924(a)(1)(A)
NAKITA MCQUAY	:	(making a false statement to a federal
TAMEKA NIBLACK	:	firearms licensee - 5 counts)
STARLENE HERBERT	:	18 U.S.C. § 1951(a)
	:	(interference with interstate commerce
	:	by robbery - 8 counts)
	:	18 U.S.C. § 924(c)(1)(A)
	:	(carrying and using a firearm during and
	:	in relation to a crime of violence -
	:	5 counts)
	:	18 U.S.C. § 2119
	:	(carjacking - 1 count)
	:	18 U.S.C. § 2113(d)
	:	(armed bank robbery - 2 counts)
	:	18 U.S.C. § 371
	:	(conspiracy to commit armed bank
	:	robbery - 1 count)
	:	18 U.S.C. § 922(g)(1)
	:	(felon in possession of a firearm or
	:	ammunition - 1 count)
	:	18 U.S.C. § 931 and 921(a)(35)
	:	(possession of body armor - 1 count)
	:	18 U.S.C. § 373
	:	(solicitation to commit murder - 1 count)
	:	18 U.S.C. § 2
	:	(aiding and abetting)
	:	Notice of Forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. It was a federal felony crime to knowingly make any false statement or representation with respect to the information required to be kept in the records of firearms dealers, who are federal firearms licensees licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) or the United States Department of the Treasury.

2. Abington Gun Sports, located at 43 Easton Road, Willow Grove, Pennsylvania, possessed a federal firearms license and was authorized to deal in firearms under federal laws.

3. Philadelphia Archery and Gun, located at 831 Ellsworth Street, Philadelphia, Pennsylvania, possessed a federal firearms license and was authorized to deal in firearms under federal laws.

4. Lock’s Philadelphia Gun Exchange, located at 670 Frankford Avenue, Philadelphia, Pennsylvania, possessed a federal firearms license and was authorized to deal in firearms under federal laws.

5. The Firing Line, located at 1532 S. Front Street, Philadelphia, Pennsylvania, possessed a federal firearms license and was authorized to deal in firearms under federal laws.

6. Various rules and regulations contained in and promulgated under the authority of Title 18, United States Code, Chapter 44 (Sections 921-929) govern the manner in

which a Federal Firearms Licensee (“FFL”) may sell firearms and ammunition. Among the rules and regulations governing FFLs were the following requirements:

a. An FFL not sell a firearm or ammunition to a person “who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year” (“a prohibited person”);

b. A person seeking to buy a firearm fill out a Pennsylvania State Police Application/Record of Sale and wait for a background check to be performed to determine if the purchaser is a “prohibited person;”

c. A person seeking to purchase a firearm fill out a “Firearms Transaction Record,” ATF Form 4473. Part of Form 4473 requires that the prospective purchaser represent, subject to penalties of perjury, that he or she is the actual buyer of the firearm, rather than a “straw purchaser,” acquiring the firearm on behalf of another. The Form 4473 in effect at the times relevant to this indictment contained language explaining what it means to be an actual buyer as follows:

WARNING - The Federal firearms laws require that the individual filling out this form must be buying the firearm for himself or herself or as a gift. Any individual who is not buying the firearms for himself or herself or as a gift, but who completes this form, violates the law. Example: Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. If Mr. Jones fills out this form, he will violate the law. However, if Mr. Jones buys a firearm with his own money to give to Mr. Smith as a birthday present, Mr. Jones may lawfully complete this form. A licensee who knowingly delivers a firearm to an individual who is not buying the firearm for himself or herself or as a gift violates the law by maintaining a false ATF 4473.

7. FFLs were required, pursuant to regulations promulgated by ATF under the authority of Title 18, United States Code, Chapter 44 (Sections 921-929), to maintain a

record, in the form of a completed Form 4473, of the identity of the actual buyer of firearms sold by the FFLs, to ensure that the person was not prohibited from purchasing a firearm.

8. A person who is not purchasing a firearm for himself or herself is known as a “straw purchaser.”

9. Defendants **ANDRE HENRY, LEON HENRY and RICHARD HOLLAND** were prohibited from purchasing firearms and ammunition because they had been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.

10. From in or about August 2003 to in or about October 2003, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendants

**ANDRE HENRY,
RICHARD HOLLAND,
LEON HENRY,
NAKITA McQUAY,
TAMEKA NIBLACK, and
STARLENE HERBERT,**

conspired and agreed, together and with others known and unknown to the grand jury, to commit offenses against the United States, that is, to knowingly make false statements and representations with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders’ records, in violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

MANNER AND MEANS

It was a part of the conspiracy that:

11. Defendant **ANDRE HENRY** wanted to purchase firearms so that he and defendant **RICHARD HOLLAND** and others could use them to commit armed robberies of banks and other commercial businesses.

12. Defendants **ANDRE HENRY, LEON HENRY** and **RICHARD HOLLAND** recruited defendants **NAKITA McQUAY, TAMEKA NIBLACK**, and **STARLENE HERBERT** to straw purchase firearms for them.

13. At the direction of defendants **ANDRE HENRY, LEON HENRY** and **RICHARD HOLLAND**, defendants **NAKITA McQUAY, TAMEKA NIBLACK**, and **STARLENE HERBERT** went with them to the gun stores listed in paragraphs 2 through 5 above, straw purchased firearms, and falsely certified on ATF Form 4473s that they were purchasing the firearms for themselves when, in fact, they were purchasing the firearms for defendants **ANDRE HENRY, LEON HENRY** and **HOLLAND**.

OVERT ACTS

In furtherance of the conspiracy, the defendants committed the following overt acts in the Eastern District of Pennsylvania:

August 7, 2003 Straw Purchase of Firearms

On or about August 7, 2003:

1. Defendant **ANDRE HENRY** drove defendant **NAKITA McQUAY** to the Abington Gun Sports store, located at 43 Easton Road in Willow Grove, Pennsylvania, so that she would straw purchase firearms for him.

2. After they entered the store, defendant **ANDRE HENRY** picked out the firearms he wanted defendant **McQUAY** to purchase for him and he paid cash for the two firearms, a Marlon 30/30 rifle, serial number 27038706 and a Bushmaster .223 caliber rifle, serial number BF1408851. Defendant **NAKITA McQUAY** then completed an ATF Form 4473 Firearms Transaction Record, in which she falsely certified that she was the actual purchaser of the firearms.

3. Subsequently, defendant **ANDRE HENRY** paid defendant **NAKITA McQUAY** cash for straw purchasing the firearms and giving them to him.

August 13, 2003 Straw Purchase of Firearms

On or about August 13, 2003:

4. Defendants **ANDRE HENRY** and **RICHARD HOLLAND** drove defendant **NAKITA McQUAY** to the Abington Gun Sports store, located at 43 Easton Road in Willow Grove, Pennsylvania, so that she would straw purchase firearms for them.

5. After entering the store, defendants **ANDRE HENRY** and **RICHARD HOLLAND** picked out the firearms they wanted defendant **McQUAY** to purchase for them, and defendant **HENRY** paid cash for the three firearms, a Mossberg 12 gauge shotgun, serial number R3534701, a Franchi 12 gauge shotgun, serial number S96140 and an AK-47 SAR assault rifle, serial number 1-31626-2002. Defendant **NAKITA McQUAY** then completed an ATF Form 4473 Firearms Transaction Record, in which she falsely certified that she was the actual purchaser of the firearms.

6. Subsequently, defendant **ANDRE HENRY** paid defendant **NAKITA McQUAY** cash for straw purchasing the firearms and giving them to him.

October 2, 2003 Attempted Straw Purchase of Firearms

7. In or about early October 2003, defendants **ANDRE HENRY** and **LEON HENRY** recruited defendants **TAMEKA NIBLACK** and **STARLENE HERBERT** to straw purchase firearms for them. Because defendants **NIBLACK** and **HERBERT** did not have valid photographic identification, such as a driver's license, to purchase firearms, defendant **LEON HENRY** gave defendants **NIBLACK** and **HERBERT** money to get proper identification, which they did.

8. On or about October 2, 2003:

a. Defendants **ANDRE HENRY** and **LEON HENRY** drove defendants **TAMEKA NIBLACK** and **STARLENE HERBERT** to the Philadelphia Archery and Gun Club, located at 831 Ellsworth Avenue in Philadelphia, Pennsylvania, so that they would straw purchase firearms for them.

b. After arriving at the store, defendants **ANDRE HENRY** and **LEON HENRY** told defendants **TAMEKA NIBLACK** and **STARLENE HERBERT** which firearms they were to purchase and where they would be in the store. Defendant **LEON HENRY** then gave them cash for the purchases. When defendants **NIBLACK** and **HERBERT** entered the store and attempted to purchase the firearms, an AR-15 assault rifle and an AK Vulcan assault rifle, the store clerk refused to sell them the firearms because they did not know how to operate the weapons.

9. On or about October 3, 2003, defendant **TAMEKA NIBLACK** went to defendant **LEON HENRY's** home, where defendants **ANDRE HENRY** and **LEON HENRY** gave her a AR-15 rifle and a Glock 9mm pistol and showed her how to operate them, so that

defendant **NIBLACK** would be able to show that she knew how to use a firearm the next time she was asked by defendant **ANDRE HENRY** to straw purchase one.

10. On or about October 4, 2003, defendant **STARLENE HERBERT** went to defendant **LEON HENRY**'s home, where defendant **LEON HENRY** gave her a AR-15 rifle and a Glock 9mm pistol and showed her how to operate them so that defendant **HERBERT** would be able to show that she knew how to use a firearm the next time she was asked by defendant **ANDRE HENRY** to straw purchase one.

October 3, 2003 Straw Purchase of Firearms

On or about October 3, 2003:

11. Defendants **ANDRE HENRY** and **LEON HENRY** drove defendant **TAMEKA NIBLACK** to the Lock's Philadelphia Gun Exchange, located at 670 Frankford Avenue in Philadelphia, Pennsylvania, so that she would straw purchase firearms for them.

12. After arriving at the store, while defendant **TAMEKA NIBLACK** remained in the car, defendants **ANDRE HENRY** and **LEON HENRY** entered the store and found the firearm they wanted defendant **NIBLACK** to purchase for them.

13. Defendants **ANDRE HENRY** and **LEON HENRY** left the store, returned to the car where defendant **TAMEKA NIBLACK** was waiting, told her which firearm to purchase, and gave her cash for the purchase.

14. Defendant **TAMEKA NIBLACK** then entered the store, paid cash for the firearm, an AR Bushmaster rifle, serial number L195480, and completed an ATF Form 4473 Firearms Transaction Record, in which she falsely certified that she was the actual purchaser of the firearm.

15. Subsequently, defendant **ANDRE HENRY** paid defendant **TAMEKA NIBLACK** cash for straw purchasing the firearm and giving it to him.

October 4, 2003 Straw Purchase of Firearms

On or about October 4, 2003:

16. Defendant **ANDRE HENRY** accompanied by Gregory Clay drove defendants **TAMEKA NIBLACK** and **STARLENE HERBERT** to the Philadelphia Archery and Gun Club, located at 831 Ellsworth Avenue in Philadelphia, Pennsylvania, so that they would straw purchase firearms for defendant **HENRY**.

17. After arriving at the store, while defendants **TAMEKA NIBLACK** and **STARLENE HERBERT** remained in the car, defendant **ANDRE HENRY** entered the store and found the firearms he wanted them to purchase for him.

18. Defendant **ANDRE HENRY** left the store, returned to the car where defendants **TAMEKA NIBLACK** and **STARLENE HERBERT** were waiting, told defendant **NIBLACK** which firearm to purchase, and gave her cash for the purchase.

19. Defendant **TAMEKA NIBLACK** then entered the store, paid cash for the firearm, a Glock 9mm semi-automatic pistol, serial number FLR897, and completed an ATF Form 4473 Firearms Transaction Record, in which she falsely certified that she was the actual purchaser of the firearm.

20. Defendant **TAMEKA NIBLACK** then returned to the car, where she gave the firearm to defendant **ANDRE HENRY**, who paid her cash for straw purchasing the firearm for him.

21. Defendant **ANDRE HENRY** then told defendant **STARLENE HERBERT** to purchase another Glock 9mm semi-automatic firearm for him and gave her cash for the purchase. When defendant **HERBERT** entered the store and attempted to purchase a Glock 9mm semi-automatic pistol, she was arrested.

22. Later that night, defendant **ANDRE HENRY** and Gregory Clay went to defendant **STARLENE HERBERT's** residence and got back from defendant **HERBERT** the cash defendant **ANDRE HENRY** had given her to straw purchase the gun for him.

October 8, 2003 Straw Purchase of Firearms

On or about October 8, 2003:

23. Defendant **ANDRE HENRY** drove defendant **TAMEKA NIBLACK** to the Firing Line, a gun store located at 1532 S. Front Street in Philadelphia, Pennsylvania, so that she would straw purchase firearms for him.

24. Defendant **ANDRE HENRY** told defendant **TAMEKA NIBLACK** which firearm to purchase and gave her cash for the purchase.

25. Defendant **TAMEKA NIBLACK** then entered the store, paid cash for the firearm, a Glock 9mm semi-automatic pistol, serial number FRN001, and completed an ATF Form 4473 Firearms Transaction Record, in which she falsely certified that she was the actual purchaser of the firearm.

26. Defendant **TAMEKA NIBLACK** then returned to the car, where she gave the firearm to defendant **ANDRE HENRY**, who paid her cash for straw purchasing the firearm for him.

27. In or about fall of 2003, shortly after defendant **TAMEKA NIBLACK** made the purchases of firearms in October, 2003 for defendant **ANDRE HENRY**, defendant **LEON HENRY** contacted her and told her that he wanted to stage a break-in of her residence so that she could falsely report to the police that her home had been burglarized and the firearms had been stolen.

28. In or about fall of 2003, after defendant **ANDRE HENRY** was arrested and incarcerated, defendant **LEON HENRY** again contacted defendant **TAMEKA NIBLACK** and told her to falsely report to the police that she was the girlfriend of defendant **ANDRE HENRY**, and that the firearms that had been seized by police on October 21, 2003 belonged to her and were only being stored at defendant **ANDRE HENRY's** home.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 2 and 6 through 9 of Count One are incorporated herein.
2. On or about August 7, 2003, in Willow Grove, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY and
NAKITA MCQUAY,**

in connection with the acquisition of each of the firearms listed below from Abington Gun Sports, knowingly made, and aided and abetted and willfully caused the making of, false statements and representations with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders' records, in that defendant **MCQUAY** certified on the Form 4473 that she was the actual purchaser of the firearms, when in fact, defendant **MCQUAY** purchased the firearms on behalf of defendant **HENRY**, and both defendants **MCQUAY** and **HENRY** knew that statements were false.

Firearm	Serial Number
Marlon 30/30 Rifle	27038706
Bushmaster .223 caliber Rifle	BFI408851

All in violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 2 and 6 through 9 of Count One are incorporated herein.
2. On or about August 13, 2003, in Willow Grove, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY,
RICHARD HOLLAND, and
NAKITA MCQUAY,**

in connection with the acquisition of each of the firearms listed below from Abington Gun Sports, knowingly made, and aided and abetted and willfully caused the making of, false statements and representations with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders' records, in that defendant **MCQUAY** certified on the Form 4473 that she was the actual purchaser of the firearms, when in fact, defendant **MCQUAY** purchased the firearms on behalf of defendants **HENRY** and **HOLLAND**, and each of the defendants knew that the statements were false.

Firearm	Serial Number
Mossberg 12 gauge shotgun	R3534701
Franchi 12 gauge shotgun	S961010
AK-47 SAR Assault Rifle	1-31626-2002

All in violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about August 13, 2003, in Willow Grove, in the Eastern District
of Pennsylvania, defendants

**ANDRE HENRY, and
RICHARD HOLLAND,**

having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by
imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate
commerce the following firearms:

Firearm	Serial Number
Mossberg 12 gauge shotgun	R3534701
Franchi 12 gauge shotgun	S961010
AK-47 SAR Assault Rifle	1-31626-2002

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 4 and 6 through 9 of Count One are incorporated herein.
2. On or about October 3, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY,
LEON HENRY, and
TAMEKA NIBLACK,**

in connection with the acquisition of the firearm listed below from Lock's Gun Exchange, knowingly made, and aided and abetted and willfully caused the making of, false statements and representations with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders' records, in that defendant **NIBLACK** certified on the Form 4473 that she was the actual purchaser of the firearm, when in fact, defendant **NIBLACK** purchased the firearm on behalf of defendants **ANDRE HENRY** and **LEON HENRY**, and defendants **NIBLACK, ANDRE HENRY** and **LEON HENRY** all knew that the statement was false.

Firearm	Serial Number
AR-15 Bushmaster rifle	L195480

All in violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

On or about October 3, 2003, in Philadelphia, in the Eastern District
of Pennsylvania, defendants

**ANDRE HENRY, and
LEON HENRY,**

having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, that is, an AR-15 Bushmaster rifle, serial number L195480.

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 3 and 6 through 9 of Count One are incorporated herein.
2. On or about October 4, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY, and
TAMEKA NIBLACK,**

in connection with the acquisition of the firearm listed below from Philadelphia Archery and Gun, knowingly made, and aided and abetted and willfully caused the making of, a false statement and representation with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders' records, in that defendant **NIBLACK** certified on the Form 4473 that she was the actual purchaser of the firearm, when in fact, defendant **NIBLACK** purchased the firearm on behalf of **ANDRE HENRY**, and defendants **NIBLACK** and **HENRY** knew that statement was false.

Firearm	Serial Number
Glock 9mm semi-automatic pistol	FLR897

All in violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 5 through 9 of Count One are incorporated herein.
2. On or about October 8, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY, and
TAMEKA NIBLACK,**

in connection with the acquisition of each of the firearms listed below from the Firing Line, knowingly made, and aided and abetted and willfully caused the making of, false statements and representations with respect to information required by the provisions of Chapter 44, Title 18, United States Code, to be kept in the FFL holders' records, in that defendant **NIBLACK** certified on the Form 4473 that she was the actual purchaser of the firearm, when in fact, defendant **NIBLACK** purchased the firearm on behalf of defendant **ANDRE HENRY**, and defendants **NIBLACK** and **HENRY** knew that the statement was false.

Firearm	Serial Number
Glock 9mm semi-automatic pistol	FRN001

All in violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

COUNT NINE

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Burger King Restaurant, located at 900 Easton Road in Abington, Pennsylvania, was a business engaged in interstate commerce.

2. On or about August 6, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

obstructed, delayed and affected commerce, and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendant **HENRY** unlawfully attempted to take and obtain money from the person or in the presence of others and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by pointing what appeared to be a firearm at two vendors, putting the weapon into one vendor's neck, demanding that an employee open the door to the restaurant, and threatening to kill the vendors if they did not comply with his demands.

In violation of Title 18, United States Code, Section 1951(a).

COUNT TEN

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The McDonald's Restaurant, located at 79th and Ogontz Avenues in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.
2. On or about August 7, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

obstructed, delayed and affected commerce, and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendant **HENRY** unlawfully took and obtained money from the employees of the McDonald's Restaurant and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by putting what appeared to be a firearm up to the head of an employee, demanding money, and threatening to shoot the employees.

In violation of Title 18, United States Code, Section 1951(a).

COUNT ELEVEN

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Wendy's Restaurant, located at 501 Adams Avenue in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.

2. On or about August 13, 2003, at approximately 12:00 midnight, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

obstructed, delayed and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendant **HENRY** unlawfully took and obtained money from the employees of the Wendy's Restaurant against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by pointing what appeared to be a firearm, demanding money, and otherwise threatening them.

In violation of Title 18, United States Code, Section 1951(a).

COUNT TWELVE

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Wendy's Restaurant, located at 2385 Cheltenham Avenue in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.
2. On or about August 13, 2003, at approximately 1:00 a.m., in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

obstructed, delayed and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendant **HENRY** unlawfully took and obtained money from the employees of the Wendy's Restaurant and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by pointing what appeared to be a firearm at the employees, forcing the manager to open the restaurant safe, demanding money, and threatening to shoot them if the manager appeared in court.

In violation of Title 18, United States Code, Section 1951(a).

COUNT THIRTEEN

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Checker's Restaurant, located at 7115 Stenton Avenue in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.
2. On or about August 16, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY and
GREGORY CLAY,
a/k/a "George Clay,"**

obstructed, delayed and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendants **HENRY** and **CLAY** unlawfully took and obtained, and aided and abetted the taking and obtaining of, money from the employees of the Checker's Restaurant and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by pointing what appeared to be a firearm, demanding money, and otherwise threatening them.

In violation of Title 18, United States Code, Section 1951(a) and 2.

COUNT FOURTEEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about August 27, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

with intent to cause death and serious bodily harm, at gun point, attempted to take a motor vehicle, that is, a Lexus, from the person and presence of another, by force, violence, and intimidation, that had been transported, shipped, and received in interstate commerce.

In violation of Title 18, United States Code, Section 2119.

COUNT FIFTEEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about August 27, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly used and carried a firearm, that is, a loaded AK-47 assault rifle, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, the attempted carjacking of a motor vehicle by force or violence, in violation of Title 18, United States Code, Section 2119.

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT SIXTEEN

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Burger King Restaurant located at 101 E. Olney Street in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.
2. On or about September 3, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY, and
GREGORY CLAY,
a/k/a "George Clay,"**

obstructed, delayed and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendants **HENRY** and **CLAY** unlawfully took and obtained, and aided and abetted the taking and obtaining of, money from the employees of the Burger King Restaurant and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by pointing what appeared to be a firearm, demanding money, and otherwise threatening them.

In violation of Title 18, United States Code, Section 1951(a) and 2.

COUNT SEVENTEEN

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The McDonald's Restaurant, located at 710 Adams Avenue in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.
2. On or about September 8, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

obstructed, delayed and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendant **HENRY** unlawfully took and obtained money from the employees of the McDonald's Restaurant and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their persons and property, that is, by putting a firearm into the back of the restaurant manager, ordering everyone else to the back of the restaurant, ordering the manager to open the safe, and stealing the restaurant keys and locking everyone inside.

In violation of Title 18, United States Code, Section 1951(a).

COUNT EIGHTEEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 8, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly used and carried a firearm, that is, a rifle or shotgun, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a).

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT NINETEEN

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Wendy's Restaurant, located at 700 Hunting Park Avenue in Philadelphia, Pennsylvania, was a business engaged in interstate commerce.
2. On or about September 9, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

obstructed, delayed and affected commerce and the movement of articles and commodities in commerce, and attempted to do so, by robbery, in that, defendant **HENRY** unlawfully took and obtained money from the employees of the Wendy's Restaurant and against their will, by means of actual and threatened force, violence, and fear of injury, immediate and future to their person and property, that is, by putting a gun to the side of an employee, putting a gun to the head of the restaurant manager, ordering the safe to be opened and ordering the employees and customers to get down on the floor or he would shoot them.

In violation of Title 18, United States Code, Section 1951(a).

COUNT TWENTY

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 9, 2003, in Philadelphia in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly used and carried a firearm, that is, a rifle or shotgun, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a).

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT TWENTY-ONE

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 18, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly and unlawfully, by force and violence, and by intimidation, took from employees of the Pulaski Savings Bank lawful currency of the United States, that is, approximately \$59,935 belonging to, and in the care, custody, control, management and possession of the Pulaski Savings Bank, the deposits of which were insured by the Federal Deposit Insurance Corporation, and, in so doing, defendant **HENRY** knowingly and unlawfully assaulted and put in jeopardy the lives of the employees of the Pulaski Savings Bank, and other persons, by use of a dangerous weapon, that is, an AK-47 type assault rifle.

In violation of Title 18, United States Code, Section 2113(d).

COUNT TWENTY-TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 18, 2003, in Philadelphia in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly carried a firearm, that is, an AK-47 type assault rifle, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, armed bank robbery, in violation of Title 18, United States Code, Section 2113(d).

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT TWENTY-THREE

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 29, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly and unlawfully, by force and violence, and by intimidation, took from employees of the Pulaski Savings Bank lawful currency of the United States, that is, approximately \$34,071 belonging to, and in the care, custody, control, management and possession of the Pulaski Savings Bank, the deposits of which were insured by the Federal Deposit Insurance Corporation, and, in so doing, defendant **HENRY** knowingly and unlawfully assaulted and put in jeopardy the lives of the employees of the Pulaski Savings Bank, and other persons, by use of a dangerous weapon, that is, an AK-47 type assault rifle.

In violation of Title 18, United States Code, Section 2113(d).

COUNT TWENTY-FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 29, 2003, in Philadelphia in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

knowingly carried a firearm, that is, an AK-47 type assault rifle, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, armed bank robbery, in violation of Title 18, United States Code, Section 2113(d).

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT TWENTY-FIVE

THE GRAND JURY FURTHER CHARGES THAT:

1. From in or about September to in or about October, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**ANDRE HENRY,
RICHARD HOLLAND, and
GREGORY CLAY,
a/k/a "George Clay,"**

conspired and agreed, together with others known to the grand jury, to commit an offense against the United States, that is, to knowingly and unlawfully commit armed bank robbery of the First National Penn Bank in Philadelphia, the deposits of which were insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(d).

MANNER AND MEANS

2. It was part of the conspiracy that defendants **ANDRE HENRY, RICHARD HOLLAND** and **GREGORY CLAY** intended to commit an armed robbery of the First National Penn Bank, located at 3617 Midvale Avenue in Philadelphia, at gunpoint, and to steal U.S. currency.

OVERT ACTS

In furtherance of the conspiracy, the defendants committed the following overt acts in the Eastern District of Pennsylvania:

From in or about September to in or about October, 2003:

1. Defendants **ANDRE HENRY, RICHARD HOLLAND** and **GREGORY CLAY** drove together to the First National Penn Bank, located at 3617 Midvale Avenue in Philadelphia, Pennsylvania, for the purpose of planning the commission of an armed bank

robbery.

2. Defendant **ANDRE HENRY** entered the bank and surveyed the physical layout of the bank and determined the existence of security measures inside of the bank.

Defendants **ANDRE HENRY**, **RICHARD HOLLAND** and **GREGORY CLAY** also surveilled the outside of the bank and planned the area where **HOLLAND** would be stationed as an armed lookout during the robbery.

3. To carry out the bank robbery:

a. Defendants **ANDRE HENRY** and **RICHARD HOLLAND** cut a portion of the fence behind the bank to assist them in fleeing from the area once the bank robbery was completed;

b. Defendant **ANDRE HENRY** instructed defendant **GREGORY CLAY** to obtain another vehicle to use during the bank robbery; and

c. Defendant **RICHARD HOLLAND** was to be stationed at the top of the hill behind the bank, with instructions to shoot anyone attempting to interfere with the robbery.

All in violation of Title 18, United States Code, Section 371.

COUNT TWENTY-SIX

THE GRAND JURY FURTHER CHARGES THAT:

On or about October 21, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce the following firearms and ammunition:

Firearm/Ammunition	Serial Number
Bushmaster .223 caliber rifle	BFI408851
Franchi 12 gauge shotgun	S961010
AK-47 SAR assault rifle	1-31626-2002
Glock 9mm semi-automatic pistol	FRN001
3 rounds .50 caliber Speer ammunition	
14 rounds Federal ammunition	
23 rounds 9mm Federal ammunition	
281 rounds of 7.62 caliber ammunition, assorted manufacturers	
127 rounds .223 caliber ammunition, assorted manufacturers	

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT TWENTY-SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about October 21, 2003, in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

having been convicted in a court of the Commonwealth of Pennsylvania of a crime involving violence and punishable by imprisonment for a term exceeding one year, knowingly possessed body armor, that is, a bullet-proof vest, sold and offered for sale in interstate commerce.

In violation of Title 18, United States Code, Sections 931(a), 921(a)(35) and 924(a)(7).

COUNT TWENTY-EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

From in or about November 2004 through in or about January 2005, in Somerset, in the Western District of Pennsylvania, and in Philadelphia, in the Eastern District of Pennsylvania, defendant

ANDRE HENRY,

with the intent that persons known to the grand jury engage in conduct constituting a felony that has as an element the use of physical force against the person of another in violation of the laws of the United States, solicited, commanded, induced and endeavored to persuade the persons known to the grand jury to engage in such conduct, that is, to travel in interstate commerce to commit murder-for-hire, in violation of 18 U.S.C. § 1958.

In violation of Title 18, United States Code, Section 373.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

As a result of the violations of Title 18, United States Code, Sections 924(c) and 922(g)(1), set forth in this indictment, defendants

**ANDRE HENRY,
LEON HENRY,
RICHARD HOLLAND,
NAKITA MCQUAY, and
TAMEKA NIBLACK,**

shall forfeit to the United States of America all firearms and ammunition involved in the commission of such offense(s), including, but not limited to:

1. Marlon 30/30 Rifle, Serial Number 27038706;
2. Bushmaster .223 caliber Rifle, Serial Number BFI408851;
3. Mossberg 12 gauge shotgun, Serial Number R3534701;
4. Franchi 12 gauge shotgun, Serial Number S961010;
5. AK-47 SAR Assault Rifle, Serial Number 1-31626-2002;
6. Bushmaster Rifle AR 15, Serial Number L195480;
7. Glock 9mm semi-automatic, Serial Number FLR897;
8. Glock 9mm semi-automatic, Serial Number FRN001;
9. Bullet proof vest seized on October 21, 2003 from Andre Henry's residence; and
10. All ammunition seized on October 21, 2003 from Andre Henry's residence, namely 3 rounds of .50 caliber Speer ammunition, 14 rounds of Federal ammunition, 23 rounds of 9mm Federal ammunition, 281 rounds of 7.62 caliber ammunition by assorted manufacturers, and 127 rounds of .223 caliber ammunition by assorted manufacturers.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18,

United States Code, Section 924(d).

A TRUE BILL:

GRAND JURY FOREPERSON

**PATRICK L. MEEHAN
UNITED STATES ATTORNEY**